

CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
April 3, 2006

1. CALL TO ORDER

President Inman called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman; Commissioners Buehner, Duling, Haack, Meads

Commissioners Absent: Commissioners Munro, Caffall, and Walsh

Staff Present: Dick Bewersdorff, Planning Manager; Denver Igarta, Associate Planner; Vannie Nguyen, Engineering Manager; Jerree Lewis, Planning Commission Secretary

3. COMMUNICATION AND COMMITTEE REPORTS

The Park and Recreation Advisory Board, the CCI, and the Tree Board have not met since the last Planning Commission meeting.

The Transportation Financing Committee is supportive of the study Washington County and ODOT are doing regarding the Hall/99W intersection. They had a preliminary discussion about the 99W Corridor study. It has not had the work program approved by ODOT yet. The City Engineer will meet with the County this week to discuss the project. The Committee had a presentation on a preliminary study of the Greenburg/Hwy. 99W intersection. They will discuss this again at their next meeting and will make a presentation to Council at their worksession in April. The Planned Development Review Committee will also meet with Council at their April worksession.

4. PUBLIC HEARING

4.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2004-00001/SENSITIVE LANDS REVIEW (SLR) 2004-00003 & 2006-00001/TREE REMOVAL (TRE) 2006-00001 through 2006-00009 WALL STREET EXTENSION

REQUEST: As part of a capital improvement project, the applicant is requesting approval to build a 350-foot extension of SW Wall Street, east of SW Hall Blvd, between the Tigard Library and adjacent condominiums. As part of this extension, wetlands that

are designated as locally significant will be impacted and reconfigured. To conduct this work, a comprehensive plan amendment is required. Sensitive Land reviews are required for impacts to wetlands and the proposed reconfiguration of Pinebrook Creek, a tributary to Fanno Creek, and for drainage ways. A number of trees in the sensitive land areas will require removal to accommodate the grading and construction of the roadway requiring Tree Removal permits. The applicant has requested concurrent review of all these permit applications. The Wall Street extension will provide a joint access to both the Tigard Public Library and the Fanno Pointe Condominiums to satisfy obligations to the Oregon Department of Transportation (ODOT) which allowed temporary access to the Condominiums and the Library from Hall Boulevard. This 350-foot extension will terminate on the west side of Fanno Creek and west of its 100-year floodplain. Future extensions of SW Wall Street across Fanno Creek will require a separate review and approval by the City, State and Federal agencies. **LOCATION:** SW Wall Street unimproved right-of-way, east of SW Hall Boulevard, south of the Tigard Public Library, and north of the Fanno Pointe Condominiums; Washington County Tax Assessor's Map 2S102DD, Tax Lots 200, 300 and 90000. **ZONE:** R-12: Medium-Density Residential District. The R-12 zoning district is designed to accommodate a full range of housing types at a minimum lot size of 3,050 square feet. A wide range of civic and institutional uses are also permitted conditionally. **COMPREHENSIVE PLAN DESIGNATION:** Medium-Density Residential and Open Space. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.385, 18.390, 18.510, 18.775, 18.790, 18.795 and 18.810.

Commissioners Buehner and Haack reported site visits.

STAFF REPORT

Associate Planner Denver Igarta reviewed the staff report on behalf of the City. He advised that the City is requesting a concurrent review of the Comprehensive Plan Amendment, Sensitive Land Review and Tree Removal to construct Phase 1 of the Wall Street extension. He gave a PowerPoint presentation (Exhibit A). The Planning Commission will be making a recommendation to Council; Council will hold a public hearing on the application on May 9th.

Igarta reported that this is a part of a capital improvement project. It is a 360-foot extension of Wall Street between the Library and the Fanno Pointe Condominiums. He noted that there was a discrepancy in the staff report which showed the extension to be 350 feet. This was a mistake in the narrative; however, the 10 feet was included in the design and all the technical aspects. The right-of-way meets the Transportation System Plan (TSP) standards for a collector street. There will be 2 travel lanes and a median to accommodate a left turn.

Access to the Library and the condos is the primary purpose of this project. In January 2003, a private developer received approval to construct the 42 unit Fanno Pointe Condominiums;

in April 2003, the City received approval to construct the Tigard Public Library. To meet ODOT Access Management Standards and the Tigard Development Code minimum spacing requirements, they planned a joint access way into both sites. ODOT authorized temporary access onto Hall Blvd. for both sites, given that the permanent joint access would be constructed with the Wall Street extension.

The proposed improvements do have impacts on sensitive lands. It does encroach into riparian corridor along Pinebrook Creek and associated wetlands identified on the "Wetland and Streams Corridor Map" as "Locally Significant". The proposed impact to the wetlands is 0.11 acre; the impact to the riparian corridor would be 0.42 acres. Wildlife impacts show initial reduction of available habitat for some species. The presence of a completed road would introduce human activities that may have a disturbance affect on wildlife.

Permits required include a Sensitive Lands permit and Tree Removal permit. The Comprehensive Plan Amendment is required due to the proposed development within the significant lands designated on the corridor and wetlands map. The result of the Comprehensive Plan Amendment would be the removal of the Goal 5 protection from the wetlands and riparian corridor. Once the new corridor and wetland have been established, they will be added back into the inventory of protected sites. In addition, a Clean Water Services service provider letter was required, as were Oregon Department of State Lands and US Army Corps of Engineers wetland permits.

Key findings as stated in the staff report are as follows:

- The proposed alignment was selected based on alternative analysis of 9 options in order to minimize impacts and allow for mitigation opportunities.
- In fall 2005, there was a redesign to further minimize the impact to sensitive land areas - the length of the proposed roadway was reduced from 425 feet to 360 feet to avoid development within the 100-year floodplain.
- As a result of the redesign, the total wetland impact area was reduced from 0.25 to 0.11 acre.
- A Wetland Mitigation Plan was submitted which calls for the creation of 0.08 acre of wetlands, enhancement of 0.29 acre, and 0.20 acre of wetland restoration.
- Due to the redesign, the total vegetated corridor impacts were reduced from 0.56 to 0.42 acre.
- The Biological Assessment prepared for the project stated that there are negative impacts to the downstream hydrology and water quality that have resulted from past development. It also noted adverse affects from the manmade ponds that are in line with Pinebrook Creek.
- The tree planting plan identifies the location, size and species of existing trees. There are 44 trees greater than 6". Nineteen of these trees will be removed; 15 trees will be saved; 10 trees were identified as dead or hazardous. Nine trees being removed are greater than 12" in caliper and require mitigation equaling 91 caliper inches.
- The planting plan calls for 336 caliper inches of tree replacement.

- Pinebrook Creek as it is currently aligned does not permit fish passage due to the confluence with Fanno Creek; there is a drop off of approximately 8 feet and 2 existing culverts. Reconfiguration and installation of a culvert will permit fish passage.
- The Biological Assessment submitted with the report identified threatened and endangered species of concern. It concluded that the “potential for direct adverse effects resulting in significant or direct mortality of a listed species is minimal with this project. Any direct effects would likely be transitory and within the ability of both juveniles and adults to bypass or temporarily leave the proposed action area.”
- An Economic Social Environmental Energy (ESEE) analysis was performed to show justification for loss of natural resources. They reviewed “allowing” the conflicting use south of the Tigard Library; “limiting” the conflicting use to the proposed alignment to minimize impacts to sensitive lands; and “prohibiting” the conflicting use completely.
- The ESEE Analysis concluded that “allowing” development without limit may remove the ability to protect valuable ecological functions and could result in unmitigated alterations of natural resources.
- It also concluded that strictly “prohibiting” development would also result in strong economic, social and energy consequences, by contributing to continued degradation of the transportation system, traffic congestion at peak hours, and fuel consumption while idling.
- The ESEE report states that the proposed “limit” option provides the best site plan for ecological function and improves the resource sites.
- The conclusion of the report found that project would produce “long term benefits” for “fish and wildlife habitat through restoration and enhancement of the altered lower Pinebrook Creek stream channel and associated wetlands, removal of invasive and noxious species, and reconnection of Pinebrook Creek with Fanno Creek to provide fish passage.”

Igarta advised that staff finds the proposed Wall St. extension meets applicable review criteria and presents sufficient evidence justifying the proposed impacts to sensitive lands, tree removal and the requested Comprehensive Plan Amendment. It will eliminate a hazardous access. The alignment minimizes impacts and allows for mitigation opportunities. The recent redesign minimizes disturbance of sensitive lands to the greatest extent possible to complete the project. It also provides for a connection of the Fanno Creek Trail from the Library site. The negative impacts to downstream hydrology, water quality and fish passage would be alleviated due to proposed restoration and enhancement activities.

Having reviewed the application with the applicable review criteria, staff recommends that the Planning Commission approve the proposed Wall Street project subject to the conditions listed in the staff report.

Commissioner Buehner clarified that ODOT’s original approval for access to the condos was conditioned upon the City completing the Wall Street extension. She also noted that the 2 manmade ponds have stopped the creek from running in a normal manner and the

temperature of the ponds in the summer reaches a level that's incompatible with fish being able to survive. Staff responded that the fish have not been able to access the ponds because the connection with Fanno Creek has a direct drop of approximately 8 feet. There are adverse affects to both Pinebrook Creek and Fanno Creek from of the ponds. Staff acknowledged that the reconfiguration of Pinebrook Creek will pass through the east pond. A wetlands area will be created with that pond. The reconfiguration of the creek will not pass through the second pond. It would follow the historic channel in a southerly direction. Fish will be able to access the entire length of the creek.

Staff confirmed that the existing entrance to the Fanno Pointe Condominiums will be closed after the Wall Street extension is complete. TVF&R has reviewed the plan and approved the turn around points.

Staff advised that any plan for a future extension of Wall Street through the wetlands would be a major problem.

APPLICANT'S PRESENTATION

Geraldene Moyle, Group Mackenzie, 0690 SW Bancroft, Portland, OR 97239, testified that only 12 trees require a tree removal permit because they are in a sensitive lands area. On the Transportation System Plan, Wall Street is identified to go from Hall Blvd. to Hunziker Street. This project is only for 360 feet of Wall Street from Hall Blvd. to provide access to the Library and the Fanno Pointe Condominiums. This portion of Wall Street is on the Capital Improvement Program. It is funded and, upon approval, is ready to be constructed. This portion of Wall Street includes landscaping, bike lanes, trail connection, and driveway access. They have reduced the length from 425' to 360' in order to minimize impacts. It cannot be any shorter and still be able to meet turning length and stacking distance requirements. They have no issues with the conditions of approval.

Marlin DeHaas advised that the 360' extension would be just short of the 100 year floodplain. He described the street and design elements. The street will be 50' wide, curb to curb, and includes 2 travel lanes, a left turn center lane, 2 bike lanes, a planting strip between the curb and the sidewalk on each side, 6' sidewalks, lighting, storm drainage, and underground utilities. Pinebrook Creek will be realigned and restored. It will flood into the wetlands when water is high.

Stacy Benjamin, SWCA Environmental Consultants, 434 NW 6th Ave., Suite 304, Portland did the wetland permitting for this project. She detailed the realignment and restoration project for Pinebrook Creek. They have wetlands permits from DSL and the Corps of Engineers. The creek will be restored to a more natural stream channel. The 2 manmade ponds will be removed offline from the creek. The west pond will remain as a seasonal pond – it will dry up in summer. There will be some wildlife impacts, but overall, they will restore the area to a more natural condition and improve habitat.

Using Exhibits B-F, Benjamin showed project area and specifics. Twelve trees will be removed in the sensitive lands area; 9 are viable and need a tree removal permit. The City's tree mitigation requirements call for 91 caliper inches to be mitigated. They are proposing to plant 336 caliper inches. Two hundred forty-one trees and 1207 native shrubs will be planted in the area.

Commissioner Buehner asked if the new wetland area will provide flooding relief to Fanno Creek. Benjamin said they looked at existing flows in the area and future upstream development. They sized it so it would not increase flows into Fanno Creek. There will be some overflow on Pinebrook Creek into the wetlands.

Commissioner Meads asked if there will be no parking allowed on the street. DeHaas answered that at this point, there is no parking. The applicants also clarified that the only entrance to the Library and the condos will be through the new Wall Street extension. There will be approximately 7-8 new parking spaces created at the Library. The applicants have not seen any plans to re-do the parking lot.

Vannie Nguyen, Engineering Manager, advised that the TSP calls for bike lanes. The City will have to come back and ask for a variance to add more parking spaces at the Library.

PUBLIC TESTIMONY – IN FAVOR

None

PUBLIC TESTIMONY – IN OPPOSITION

Sue Beilke, 11755 SW 114th Place, Tigard 97223 testified that she was commenting on behalf of neighbors in her community. She provided a copy of her testimony (Exhibit G). The Planning Commission and staff provided the following answers to her questions:

- People within 500' were notified of the hearing. This is a quasi-judicial application, so not everyone in the City is required to be notified.
- Phase I was for the half-street improvement and signal for the Library. This project is a part of Phase I for the whole project.
- The Planning Commission is clear on what the application includes.
- Costs of the project are not relevant to the planning phase.
- There is a stacking distance required from Wall Street onto Hall Blvd. Having a right turn close to the Wall Street/Hall Blvd. intersection into the condos wouldn't allow a viable access for people coming out of the condos turning left onto Wall Street.
- One of the conditions of the Library and the condos was that they have approval from ODOT for access. ODOT required that Wall Street be built and extended to provide access into Fanno Pointe. The existing access is temporary. The State Transportation Plan requires a certain number of feet between access ways. Those 2 State mandates

have limited the number of options for this intersection. State rules always preempt local code.

John Frewing submitted written testimony (Exhibit H).

APPLICANT'S REBUTTAL

The applicants reiterated that they already have CWS approval and DSL and Corps concurrence on their wetland delineation determination and mitigation. There will be a net gain of 0.17 acre in new wetland area. They are not filling in the flood plain; mitigation is a separate issue. The sewer line will not be disturbed.

Three consultants have done wetland delineations on the site. They were reviewed and concurred by the Department of State Lands. Stacy Benjamin said she is not sure what ponding area Beilke is referring to. She is unaware of any other wetlands area.

CWS has certain allowed uses for a road crossing a vegetated corridor. This project had to go through a more stringent review process; a Tier II alternative analysis was done where you have to prove public benefit and minimize impacts.

PUBLIC HEARING CLOSED

The Commission took a 5 minute recess to read the written testimony and then reopened the public hearing.

Commissioner Meads asked about the last 3 sentences on item #I of John Frewing's written testimony. Mr. DeHaas agreed there would be grading in the 100 year floodplain, but it would not be roadway construction. There will be grading involved with the stream restoration to create the fish weirs, etc., but there will be no fill within the flood plain.

For Item #M, staff advised that the Comprehensive Plan Amendment allows the stream relocation in a residential area. If approved, there will be an ordinance that reestablishes the new wetland as the significant wetland.

PUBLIC HEARING CLOSED

Commissioner Haack said that if this had been a "raw land" new road project, he would look at it differently. There are 2 existing projects here with imposed requirements. He thinks the staff and the applicant have come up with a best case outcome for the improvement.

Commissioner Duling agreed, saying there has been great care taken with the plan to plant all the trees and shrubs.

Commissioner Meads said she generally doesn't like to rip out habitat. This is a double edge project – there will be some destruction, but there are advantages. There will be access improvement, a net gain in wetlands area, and restoration. It looks like there will be improvement despite the disruption. There's nothing in the application that proposes extending the road across the creek over the Hunziker.

Commissioner Buehner is very pleased with the reduced length of road. She commented that she swam in the ponds as a kid. The 8' drop was created for kids to jump into creek. She is thrilled that the City is taking the affirmative action to undo this.

Commissioner Buehner moved to recommend approval of Comprehensive Plan Amendment (CPA) 2004-00001/Sensitive Lands Review (SLR) 2004-00003 & 2006-00001/Tree Removal (TRE) 2006-00001 through 2006-00009 for the Wall Street Extension, based on the testimony this evening, the staff report, and the additional written testimony submitted this evening. Commissioner Haack seconded the motion. The motion passed unanimously.

5. OTHER BUSINESS

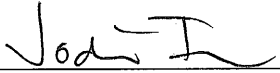
It was moved and seconded to approve the March 20, 2006 meeting minutes as submitted. The motion passed by a vote of 4-0. Commissioner Meads abstained.

6. ADJOURNMENT

The meeting adjourned at 8:33 p.m.



Jerree Lewis, Planning Commission Secretary



ATTEST: President Jodie Inman

WALL STREET EXTENSION

**Comprehensive Plan Amendment
Sensitive Lands Review
Tree Removal**

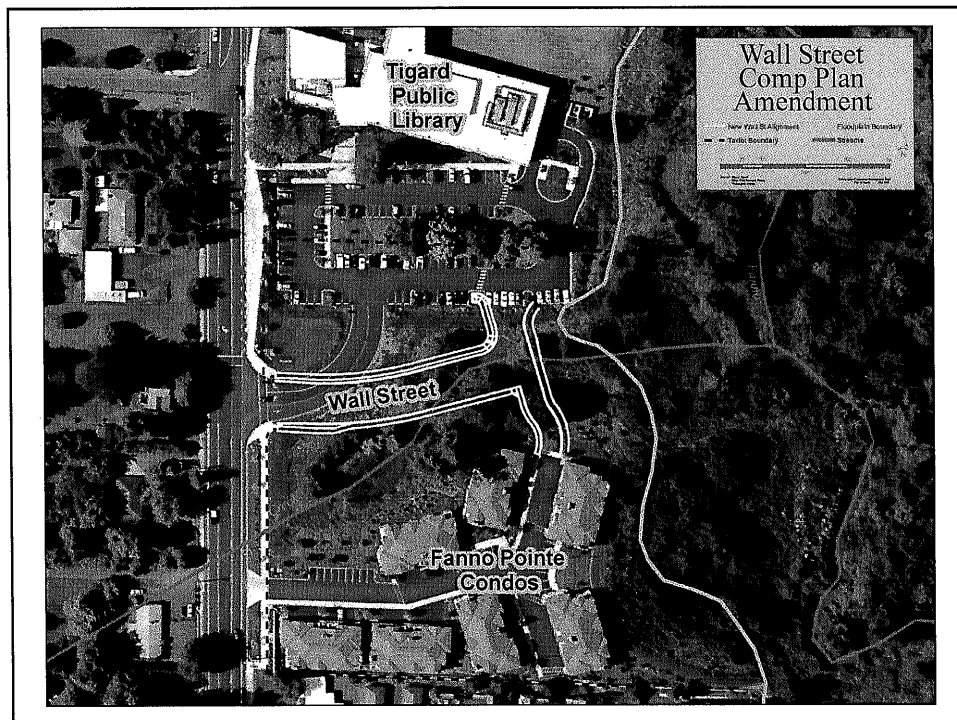
**Planning Commission Hearing
April 3, 2006**

Street Improvements

- SW Wall Street extension
- ROW width – 72 feet
- Additional width – public utility easements
and cut and fill slopes
- Section of planter strip removed

Access to Library and Condos

- 2003 – Fanno Pointe Condominiums Approval
Tigard Public Library Approval
- Joint access onto SW Wall Street
- ODOT authorized temporary access, given a permanent joint access would be constructed onto Wall Street.



Impacts

- Wetlands – 0.11 acres
- Riparian Corridor – 0.42 acres
- Wildlife – Reduction of potential habitat and disturbance from human activities

Application Submittal

- Wetlands Permits – OR DSL and Corp of Engineers
- Wetland Mitigation Plan
- Alternatives Analysis
- ESEE Analysis
- Impact Analysis
- Arborist Report (*Tree Removal & Planting Plan*)
- Geotechnical Report
- CWS Service Provider Letter
- Hydraulic Analysis
- Biological Assessment
- Traffic Study

Review Criteria

Decision based on consideration of any applicable

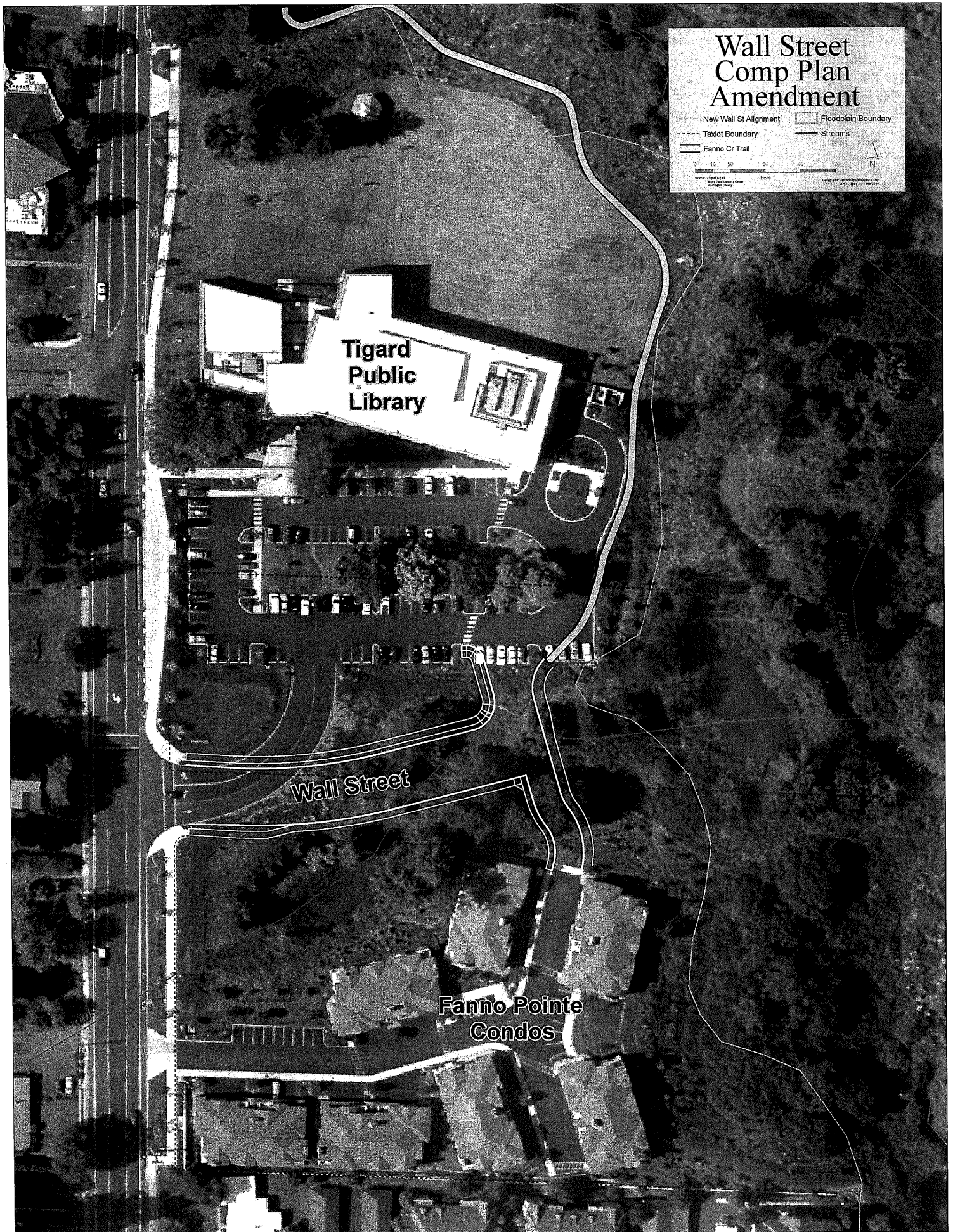
- Provisions of the City's implementing ordinances
- Comprehensive Plan policies
- Metro regulations
- Statewide Planning Goals and Guidelines
- Federal or state statutes or regulations found applicable

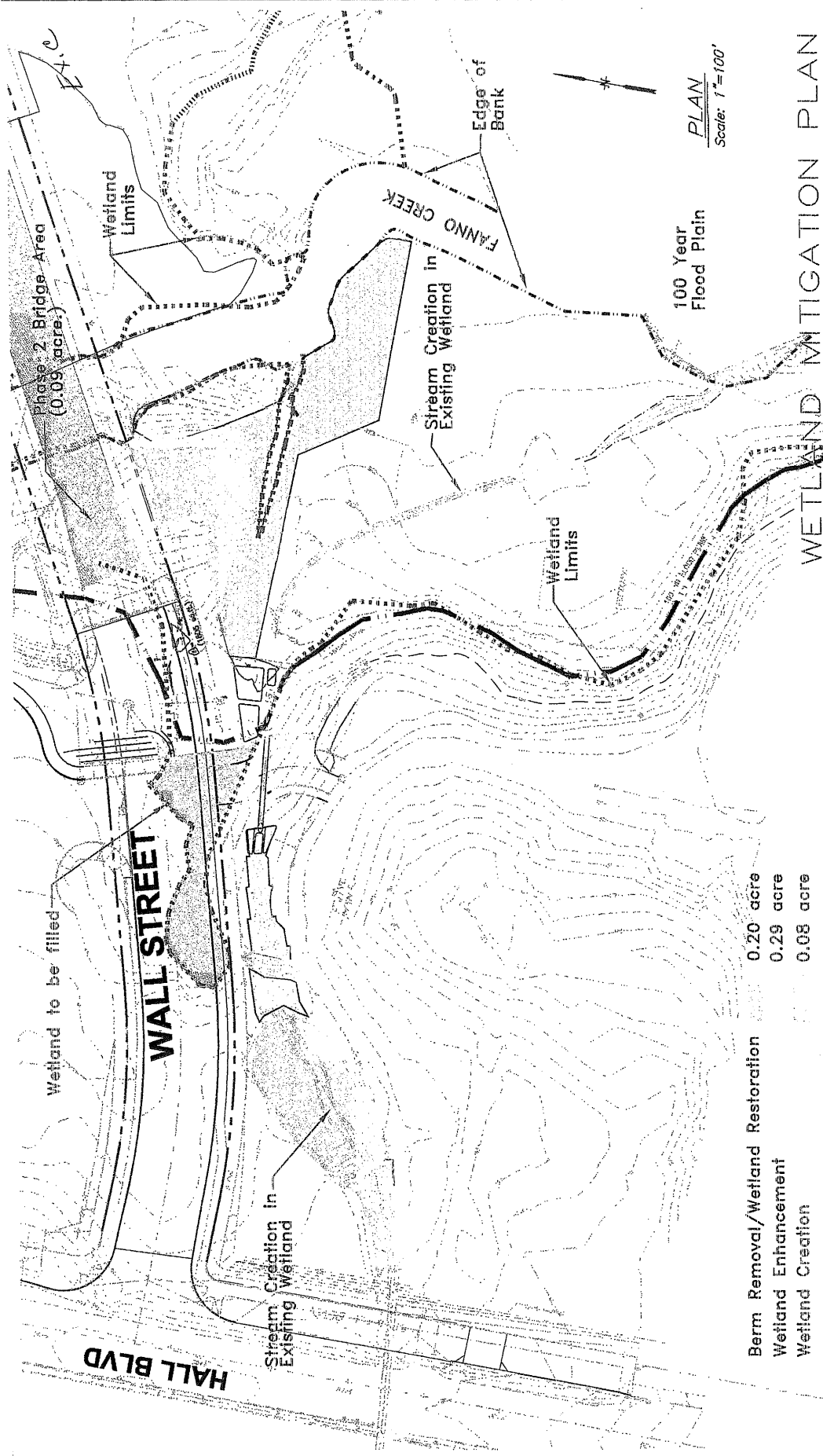
Findings

- Alignment & design
- Wetland impacts
- Riparian impacts
- Tree removal
- Fish & Wildlife impacts
- ESEE Analysis

Findings

- Improved safety of joint access
- Final alignment and redesign
- Fanno Creek trail connection
- Existing negative impacts
- Fish passage on Pinebrook Creek
- Proposed restoration and enhancement





WETLAND MITIGATION PLAN

100 Year
Flood Plain

PLAN
Scale: 1"=10'

Phase 2 Bridge Area
(0.09 acre.)

Wetland to be filled -

WALL STREET

HALL BLVD

MANNO CREEK

Edge of Bank

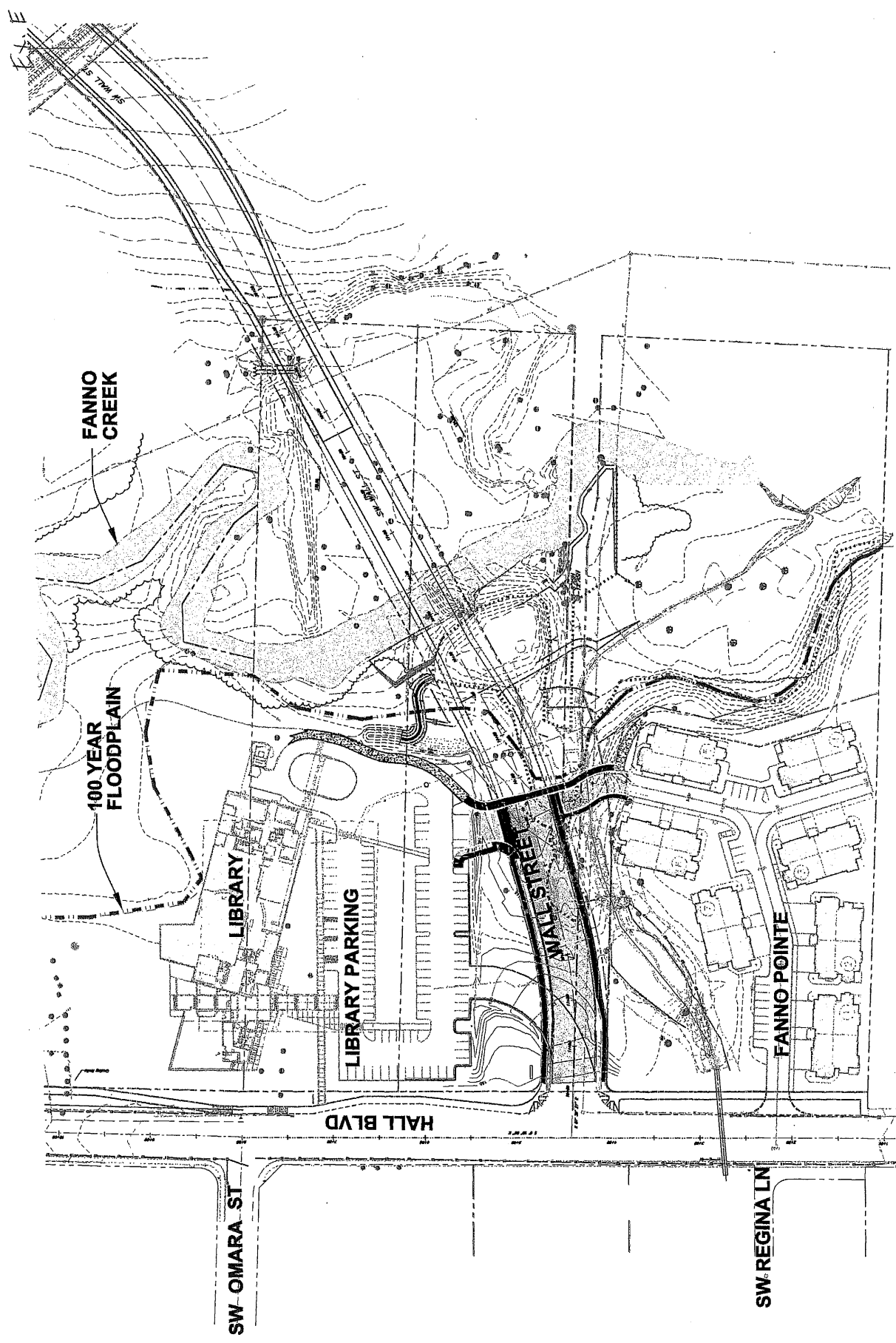
Stream Existing in Creation Wetland

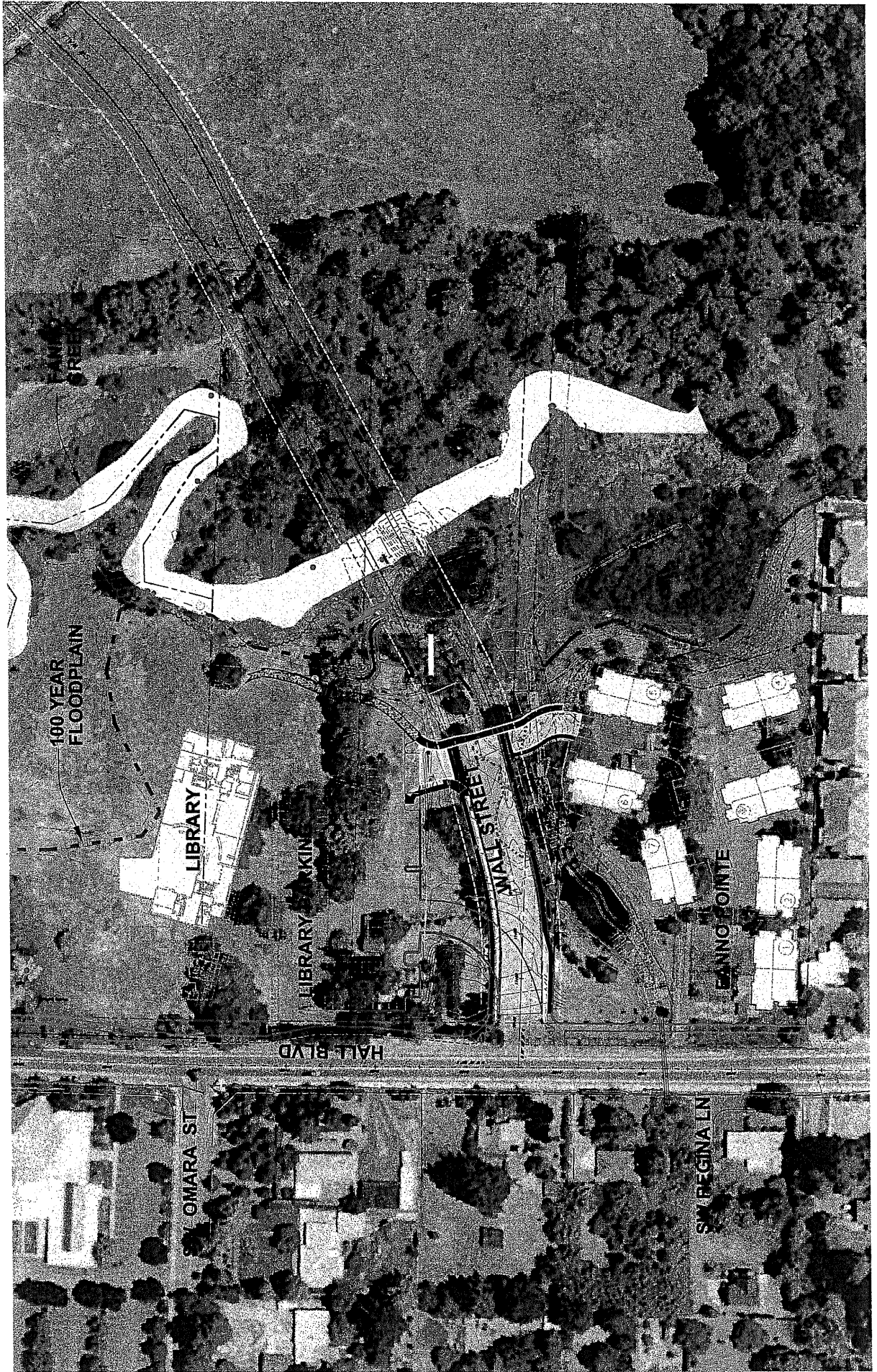
Stream Creation in
Existing Wetland

Wetland Limits

Volend
Limits

[illegible]





Ex. G

April 2, 2006

To: City of Tigard

Re: Comments on Wall Street Extension and Comprehensive Plan Amendment 2004-00001

I am submitting comments on behalf of the Biodiversity Project of Tigard, a neighborhood all-volunteer group that works toward protection and long-term conservation of our natural resources in our community. We strive to collect data that will serve to protect plants, fish and wildlife where we live in order to increase the diversity of our natural resources and improve our quality of life for all people.

- This proposal was changed from a legislative (city-wide) land use application to a quasi-judicial land use application. We are requesting this application as it stands be denied, and that it be re-submitted as a legislative land use application. This site was purchased through a bond measure and hence paid for by all the citizens of Tigard. What happens on the site affects/concerns all of us and hence everyone should be notified of the project and its potential consequences. There are some very major proposals in this application, including a comprehensive plan amendment which would significantly alter a significant wetland resource. It is not right nor fair to only notify some people in the city.

- There is great inconsistency in this application and previous work the city has conducted on what constitutes "Wall Street". The notice of public hearing states the application is for "Phase I", yet the application materials on file at the city state it is for "Phase II" ?? The application must be consistent in defining its scope. For example, The hydraulic analysis by De Hass Associates shows Phase I excavations and fill on the west side of Fanno Creek well beyond the 350 foot limit of Phase I/II. The tree removal plans show trees to be removed in all areas west of the Fanno Creek top of bank, beyond the scope of the 350' proposed. Under the Alternatives Analysis, it states on page 2 that "the 425 ft length is necessary.....". In the letter to CWS in the file dated 11/23 /05, it states that "The redesign of Phase I involves reducing the length of roadway from 425 feet to 360 feet.....". This application should be denied based on its failure to provide consistent and accurate information to the public in order for the public to be adequately informed and be able to comment on this project.

- We are very concerned about the costs of this project which have not been revealed in the application. To date, we estimate the city has spent over \$500,000 of public funds to obtain permits, conduct engineering studies, etc. The community has a right to know the costs so it can make an informed decision on the merits of this project.

- 18.385.040 – Sensitive Lands Permit – This project proposes to develop and also destroy sensitive wetlands located on public property. The code states that the application should be denied if the proposed development is in an area designated as significant wetland on the city's Comprehensive Plan Floodplain and Wetland Map. Since the wetlands located within the project scope are on this Map, and are designated as "significant", we ask that this application be denied. The significant wetlands in the city of Tigard are too important a resource to be lost. The entire open space tract south of the library should be restored where necessary, with native plantings, etc. We cannot afford to lose even a fraction of an acre of wetland any more in

Tigard due to the loss of extensive wetlands in the past 20 years due to runaway development and illegal encroachment.

- 18.775 - Sensitive Lands: 18.775.020C.2 - The proposed Wall Street is supposedly for providing access. This section of the code addresses exemptions for work in sensitive lands, which do apply to restoration and emergencies, etc. but do not apply to "roads". The application is claiming exemption from this part of the code for floodplain work but should be denied since it does not meet the code. 18.775.070B.7 - This part of the code requires that consideration shall be given to dedication of sufficient land area within and adjacent to the floodplain in accordance with the comprehensive plan when land development is allowed within the 100 year floodplain. We saw no evidence of this in this application.

- 18.790 - Tree Removal - Plain and simple, we cannot support ANY more tree removal on public lands, period. There were already a number of trees removed on this site prior to building of the library. All existing trees on the site MUST be preserved and protected for the value they provide for shade, cover, wildlife habitat, etc.

- The application states that the proposed road improvements are not in the 100 year floodplain. But the grading plans show that the floodplain is proposed to be filled and that the proposed roadway avoids the floodplains because they would be filled. For this, the Tigard code on floodplain development prohibitions should be applicable, and hence we request this application be denied. In addition, a letter to CWS from SWCA dated 11/23/05 states development within the 100 year floodplain has been avoided due to modifications in the project design, yet in the file under Tab 4 of the Road Extension Plan, it shows excavation in the 100 year floodplain. These inconsistencies in the proposal are significant and need to be addressed and until they are, we request the application be denied.


- 3.02.4.b.2 - Under CWS standards, only certain roads are permitted within the vegetated corridor, which includes preexisting roads. The proposed Wall Street is not a preexisting road, nor does the proposed extension cross the vegetated corridor of Pinebrook Creek from one side to the other, as such roads allowed to be developed would do in order to provide access. We therefore request this application be denied based on this failure to meet this part of the CWS standards.

- We do not believe that all of the significant wetlands were adequately assessed and mapped. On site visits in 2003-2005 showed ponded areas along Pinebrook Creek south of the existing man made pond. This natural pond (see attached photos) is a significant habitat for many wildlife species including the State listed Northern Red-legged Frog and Western Pond Turtle. The natural pond is not depicted on any of the wetland maps in the file. It is approximately 60-80 feet long by 30-40 feet wide during the winter months. We believe the omission of this natural ponded area in the wetlands report, and other parts of the application is a great error and significantly alters the impacts, mitigation requirements, etc. Thus, we believe until this is addressed, this application should be denied.

- Comprehensive Plan Amendment – The wetlands that fall within this project scope are on the city's Significant Wetlands Map, and the city proposes to remove this protection. We adamantly oppose any effort to remove this protection based on a number of reasons. First, there has already been a great loss of wetlands within the city both on private and public lands. Anything that is classified as significant should be protected, preserved and enhanced as it is a scarce and highly valuable resource. Second, the citizens made a bargain with the city that they would support the building of a library on this site when purchased, IF all the open spaces, wetlands, etc. were protected. **There was NO disclosure that a part of the wetlands, and in this case SIGNIFICANT wetlands, would ever be developed, and hence lost forever. This is an extreme violation of trust! We therefore now ask that this application be denied based on this violation of the bond measure agreement with the citizens who paid for the purchase of this site and the building of the library.**

In conclusion, we must state that we adamantly oppose this project. It would have great negative impacts to the fish and wildlife that use the wetlands and forested habitat in this area. We do not support any project that would propose to take significant wetlands off the comprehensive plan, we do not support any project that proposes to fill in wetlands, and we do not support any project that proposes to remove trees. The library site was purchased as an open space and secondarily as the site for the library. Citizens do not want to lose any more of the open space on the site. The impacts of this project are far too great and costly to approve. We request this project be withdrawn and the Planning Commission deny the application.

Sincerely,


Sue Beilke, Director
The Biodiversity Project of Tigard



2/03 - Photos of natural ponded areas along
Pinebrook Creek - taken from Parma Pt.

(a.)



2/03

6

EX-H

WALL ST EXTENSION COMMENTS

3/31/05

A The application and its materials are not consistent and clear what constitutes Phase 1 and Phase 2, and what the approval covers. At one point, only 350 feet of Wall St seems to comprise Phase 1. However, in the 1/12/06 letter to Tigard from Mackenzie regarding tree removal, Phase 1 is outlined on the drawing to include tree removal in all areas west of the Fanno Creek top of bank. The application must be consistent in defining its scope. On maps associated with the DSL and Corps applications, the scope of application includes Wall St extension all the way across both Fanno Creek and the railroad. The hydraulic analysis by DeHass Associates shows Phase 1 excavations and fill on the west side of Fanno Creek well beyond the 350 foot limit of Phase 1 work defined elsewhere. The traffic study by DKS Associates is also not consistent with an application for only 350 feet of Wall St extension; it assumes a Wall St connection from Hall Blvd all the way to Hunziker Street.

B The proposed Wall St extension appears to be within the vegetated corridor of Pinebrook Creek. Section 3.02 of CWS standards states (3.02.4.b.2)) that only certain roads are permitted within the vegetated corridor. The proposed Wall St extension is not a preexisting road. Such roads allowed to be developed are those "crossing the vegetated corridor from one side to the other in order to provide access to the sensitive area or across the sensitive area." The proposed Wall St extension itself does not cross the vegetated corridor of Pinebrook Creek from one side to the other; only a narrow driveway provides access to the sensitive area (the other side is on its south, adjacent to Fanno Point Condominiums) and is not located to provide access to the sensitive area of Pinebrook Creek (in fact, access to the sensitive area is to be restricted by fencing of the sensitive area). Additionally, the application states that a retaining wall has been used on the downstream side of the access to Fanno Point Condominiums to minimize impacts on sensitive areas, but has not proposed similar retaining wall designs to minimize impact to the vegetated corridor along the proposed Wall Street or along the upstream side of the Fanno Point Condominiums access; the Tigard Code requires minimizing impacts in these areas, and retaining walls should be considered at these locations.

B' The application claims exemption from limitations on floodplain work under Tigard Code paragraph 18.775.020C.2, which concerns wetland "restoration" or "enhancement". The Wall Street extension project is for neither of these two purposes, it is for a road that would connect Hall Blvd to Hunziker Street. Further, the work in Pinebrook Creek and its wetlands is for 'relocation' of Pinebrook Creek and the restoration or enhancement claimed in the application is only done as a result of this proposed 'relocation', which is not an exempt activity.

C The proposed Wall St extension appears to encroach on the vegetated corridor of Pinebrook Creek more than allowed by CWS standard 3.02.4.a.2) – it occurs for more of the allowed 20% of the frontage length of the vegetated corridor and encroaches more than the allowed 20% of the vegetated corridor's 50-foot width.

D The proposed Pinebrook culvert at Fanno Point Access appears to rely heavily on hydrology and hydraulics engineering work done in 2003 for the Hall Blvd culvert conveying Pinebrook Creek not far away. The Fanno Point Access culvert design specifically considers the same watershed west of Hall Blvd, assuming that it has not changed in character. In fact, there have

been several significant developments of impervious surface in this watershed that should be considered in the current design. Along McDonald Street there have been several developments permitted and built since 2003. Even at the top of the watershed along 103rd, there has been a new paved parking lot installed since 2003. Additional developments are pending along McDonald Street which will add to the impervious area of the watershed. Thus, the claim in the design report (undated) that 'there is no indication that the basin will develop further' appears in error. The application should be denied until this basin assessment is corrected.

E The affidavit of posting in October, 2003 makes reference to a Plan Amendment, but the new posting at the site in March, 2006 was for a Conditional Use Permit, which is not addressed in the application at all. Proper posting is part of Tigard's development regulations and any proposed development should not be heard until the posting is corrected and the development process is followed in full. It does not appear that any neighborhood meeting or preapplication meeting has been held on the significantly changed proposal for Comprehensive Plan Amendment (Phase 1).

F The impact study for the proposed Wall St extension, which is required by the Tigard code, Section 18.390, appears to be deficient when compared against the code requirements. The code requires that the impact study "shall quantify the effect of the development on public facilities and services." In two short paragraphs on transportation impacts, not one quantification is made. For the parks system impact, the total analysis is that "the project area is not located with the City's parks system." For noise impacts, the analysis recognizes (unquantified) temporary construction impacts, but for permanent impacts simply says that the area will experience "the usual noise associated with similar sized facilities", ignoring the supposed shift in trucking routing through Tigard because of a new connection between Hall Blvd and Hunziker Street. The Tigard code further requires that "for each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems and affected private property users" – no such proposed improvements are stated. Finally, the applicant is well aware of other public facilities and systems which may be affected by the proposed development – library, law enforcement, schools, natural resources of the city, etc. – these public facilities and systems should be addressed in the impact study.

G The DKS Associates traffic study for this proposed development is 4 years old and does not reflect available data on traffic movement at the Hall/Wall intersection. Current traffic counts should be evaluated. The DKS study does not appear to include traffic from Fanno Point Condominiums in the Hall/Wall intersection analysis. Recent traffic counts at the Hall/Wall intersection (attached) find that the DKS study overestimated the traffic going to/from the library by more than 171%, 192%, 167% and 232% respectively for each of the turn lanes considered in the study. Estimates which vary from reality more than 15% should be investigated as to whether the technique is faulty or other cause. The implication of these huge errors in estimating traffic is that to serve the library and Fanno Point Condominiums, a much smaller road can be constructed. With such smaller road located on the northern part of the proposed grand roadway, there will be more buffer available along Pinebrook Creek, allowing compliance with the CWS buffer requirement. See attached data of recent traffic counts at Hall/Wall.

H The appropriate authorization to use the proposed area for the purposes outlined in the application is not clearly established. The easement from Mr. Fred Fields to the public for use of his Wall Street access actually limits the use of this area to "street, road and utility purposes", whereas the application dedicates a significant portion of this area to wetland purposes that are to be permanent under the CWS service provider letter conditions. The proposed use of Tax Lot 300 (the eastern half of Fanno Pointe Condominiums property) does not have any written authorization in the application; there is only a permission slip from the Fanno Pointe Condominium owners to modify Tax Lot 90000. Until authorization to develop Tax Lot 300 is obtained and until the Fields easement is modified to limit the use of the easement to protected wetland areas, this is not a complete application and should be denied.

I Contrary to the 11/23/05 memo from SWCA to CWS updating a request for a SPL, which states that 'development within the 100 year floodplain' has been avoided as a result of modifications to the project design, the Wall Street Extension (PH. 1) under Tab 4 of the application (Road Extension Plans and Figures) clearly shows excavation in the 100 year floodplain necessary to modify the location of Pinebrook Creek as it approached and joins Fanno Creek. The only guidance on this work is stated in a drawing note "modify existing channel as per field engineering"; such work does not indicate any direction from the City, a requirement of the Tigard Code. CWS Standards Section 3.13 provides some necessary guidance for this stream modification and should be cited as applicable. Similarly, the 'Sensitive Lands Review' section of the application narrative states 'The road improvements are not located within the 100 year floodplain. However, affiliated grading will be located within the 100 year floodplain'. The application and its referenced drawings should consistently identify whether the 100 year floodplain is encroached upon or not.

J The narrative portion of the application states that 'permits have been received from the US Army Corps of Engineers (Corps #200300137) and the Oregon Department of State Lands (DSL #31719-RF). However in the detailed description, it appears that such permits have not been obtained for the project as proposed; revised applications have only recently been submitted. The application should be consistent in its claims regarding permits already received.

K Tigard Code Section 18.775.030 requires that Tigard notify the Federal Insurance Administration before any alteration or relocation of watercourse as proposed. Evidence of such notification does not appear in the application; it is incomplete until such information is provided and should be denied as submitted.

L The application states that the proposed road improvement is not in the 100 year flood plain. However, the grading plans (Tab 4 of the application) clearly show that the roadway avoids the flood plain only because the floodplain is proposed to be filled. The Tigard Code prohibition on floodplain development should be applied.

M The application proposes land form alteration (stream relocation) within the 100 year floodplain on Tax Lot 300 (east of Fanno Pointe Condominiums). Such development is prohibited because this area is zoned residential and the land form alteration is not associated with community recreation uses, utilities or public support facilities as defined in Chapter 18.120 of the Tigard code (there are no definition of these terms in 18.120). See TCDC 18.775.070B.2.

N The Tigard Code at 18.775.070B.7 requires that when land development is allowed within the 100 year flood plain, consideration shall be given to the dedication of sufficient land area within and adjacent to the floodplain in accordance with the comprehensive plan. No such consideration is provided in this application; such open space is available at many locations along Fanno Creek in Tigard, and this development application should consider acquisition of such sites and dedication of them as open space as part of any approval action for the Wall St extension. Without consideration of alternative land areas, the action of Tigard is arbitrary and capricious.

O The proposed application does not consider safety impacts of the Fanno Creek Trail crossing the proposed Wall Street at grade. The proposed design constitutes an attractive nuisance and danger to public use of the Fanno Creek Trail and should be modified to minimize public safety impacts. Neither does the application consider that the traffic at the Hall/Wall intersection and associated bus stops includes a high proportion of school busses and Tri-Met busses, carrying a disproportionate number of school children. The use of the library and associated transportation by school children creates a safety conflict with the proposed industrial use of Wall St, without any safety buffers or barriers.

P The ESEE analysis documented pursuant to 18.775.130 is inadequate because there is no accurate inventory of the significance of the site proposed for development relative to other comparable resources within the Tigard planning area. The only inventory of comparable streamside resources in Tigard is over 20 years old in the existing comprehensive plan. According to OAR 660-23-040, an inventory and determination of significance is an early step in any ESEE analysis and does not exist here. Further, the ESEE analysis does not demonstrate why the proposed use of Goal 5 resource areas cannot be located instead on buildable land. It is obvious that moving the proposed Wall Street some 100 feet north would largely avoid impacting Pinebrook Creek and its vegetative buffer area.

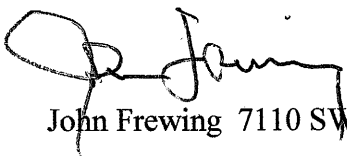
Q The Technical Memorandum on traffic design by Kittelson & Associates (Attachment 12) is deficient in that it only addresses left-turn lane storage requirements on Wall Street for year 2005, as distinguished from the 15 year (2017) evaluation provided in the traffic impact study by DKS of 2002 (as requested by ODOT).

R The DKS traffic impact study as presented should not be relied upon. Its only drawing of the library/Wall Street area (last sheet of the report) is outdated, showing a library layout and parking arrangement which was not built and showing a parking access to Hall Blvd which does not exist with the built library. Use of this layout in traffic estimates would seriously distort any delay, left turn storage and level of service calculations for the proposed Wall Street extension.

S The ESEE analysis contains improper claims of impact and necessarily should be redone: S-1 In the LIMIT alternative, the ESEE table claims as a positive social impact that road safety would be improved by "removing access to the library off of Hall Blvd." The fact is that today, even before construction of Phase 1 of the Wall Street extension, access to the library is already removed off of Hall Blvd, so it should not be counted as an impact of Phase 1 extension. S-2 The ESEE analysis fails to note in the LIMIT alternative that construction of Wall Street

extension, Phase 1, will increase the likelihood of constructing Wall Street Phase 2 and connection of Wall Street through to Hunziker St – with the associated industrial and truck traffic on Wall Street causing more noise to Fanno Pointe residents and additional safety hazards to members of the public (including a disproportionate percentage of children) using the library. S-3 The only positive economic impact of the LIMIT alternative is stated to be “employment and income related to construction and development activities” – such impact is only transitory (ie only during construction and development) and should not be considered because similar negative impacts of the transitory construction and development activities are not evaluated in the ESEE analysis. S-4 The negative social impact stated for the LIMIT alternative, “Potential for increased disturbance due to library traffic to Fanno Pointe residents,” is not true, because the impact of library traffic on Fanno Pointe residents has already happened with the construction of the Wall Street intersection at Hall Blvd and the associated traffic going to and from the library. S-5 A negative environmental impact of the LIMIT alternative should be added, noting that any encroachment into the sensitive areas adjacent to Pinebrook Creek and Fanno Creek will effectively narrow what is already one of the narrowest sections of the officially recognized and long protected Fanno Creek Greenway. S-6 The positive energy impact stated for the LIMIT alternative is in error because the congestion and idling times on Hall Blvd have already happened as a result of library construction and the traffic signalization at Wall Street and Hall Blvd.

T Funding arrangements for Phase 1 of the proposed Wall Street extension are not disclosed in the application. The application should discuss the relationship between city funding of engineering for an earlier attempted LID in this area and current funding of Phase 1 detailed engineering and construction. Prudent expenditure of limited City of Tigard funds is a high priority goal for Tigard City Council; wasting monies here can have a multiplied effect in voter acceptance of later funding/tax requests.



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Attachment: Wall Street Extension Traffic Survey, March 13, 2006

**TIGARD WALL STREET EXTENSION
TRAFFIC OBSERVATION OF MARCH 13, 2006
JOHN FREWING**

Time	Hall S.	Hall S/Lib.	Lib/Hall N.	Lib/Hall S.	Hall N/Lib.	Hall N.	Tot
1600	56	6	3	4	1	33	103
1605	68	5	4		2	50	129
1610	65	6	1		1	51	124
1615	57	7	3	1	2	44	114
1620	61	5	1	5		41	113
1625	69	7	7	5	6	42	136
1630	64	3	5	1	4	45	122
1635	67	3	7	3	3	45	128
1640	55	3	6	4	3	47	128
1645	70	1	5	2	3	50	131
1650	53	3	3	2	3	45	109
1655	80	5	3	4	6	37	135
1700	58	6	1	5	4	49	123
1705	63	8	4	4	1	46	126
1710	85	3	2	9	1	41	141
1715	85	3	1	2	8	71	170
1720	69	8	8	11	4	38	138
1725	64	2	5	4	3	43	121
1730	64	9	4	6	3	63	149
1735	48	2	5	6	5	59	125
1740	51	2	9	9	2	70	143
1745	58	4	6	2	3	65	138
1750	43	4	2	7	2	50	108
1755	59	4	6	2	3	65	139

PM PEAK 1645-1745 MARCH 13, 2006

790	52	50	64	43	612
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PM PEAK 1645-1745 FROM DKS STUDY, 2002 FORECAST FOR 2005

947	89	96	107	100	674
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NOTES:

- 1 Weather cloudy, turning to rain. Temperature 45F
- 2 In peak hour, total of 14 entries or exits from Hall Blvd to Fanno Pointe Condominiums
- 3 Dozens of school buses travel north/south on Hall Blvd during peak hour
- 4 Queue on Wall St at signal waiting to access Hall Blvd peaked at 5 cars at 1630
- 5 Access Wall St to Hall Blvd southbound stopped by backup from McDonald St at 1725